

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham and Robert Norman Rice
Serial No. : 10/759,841 Examiner : Whiteman, Brian A.
Filed : January 15, 2004 Art Unit : 1635
Conf. No. : 8757
For : SYNTHETIC GENES AND GENETIC CONSTRUCTS
Notice of Allowance mailed: September 1, 2010
Patent intended to issue on December 21, 2010

30 Rockefeller Plaza
20th Floor
New York, New York 10112
December 9, 2010

Office of Petitions
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

**PETITION TO WITHDRAW FROM ISSUE
PURSUANT TO 37 C.F.R. §1.313(c)**

This Petition is being filed under 37 C.F.R. 1.313(c)(2) to request withdrawal from issue of the above-identified patent application. An Issue Notification was issued on December 1, 2010 indicating that the above-identified application is scheduled to issue on December 21, 2010 as U.S. Patent No. 7,855,071. As set forth hereinbelow, applicants hereby request that the above-identified application be withdrawn from issue and the Request for Continued Examination (RCE) attached hereto as **Exhibit A** be acted on by the Examiner.

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Requirements for Petition to Withdraw from Issue

According to 37 C.F.R. §1.313(a), "To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in §1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary." In addition, according to 37 C.F.R. §1.313(c)(2), "Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except" various enumerated situations including "(2) Consideration of a request for continued examination in compliance with §1.114". In addition, the Petition must be filed and granted by the Office of Petitions before the issuance of the patent.

Requested Action


Applicants hereby request that the U.S. Patent and Trademark Office withdraw the above-identified application from issue and consider the enclosed Request for Continued Examination ("RCE") in accordance with 37 C.F.R. §1.313(c)(2). Applicants maintain that such is necessary in order for the office to consider the items which are disclosed in the Supplemental Information Disclosure Statement (SIDS) (**Exhibit B**) filed as the required submission under 37 C.F.R. §1.114(c) of the accompanying RCE (**Exhibit A**). An amount including the petition fee of ONE HUNDRED THIRTY DOLLARS (\$130.00) as set forth in §1.17(h) is authorized to be charged to Deposit Account No. 03-3125.

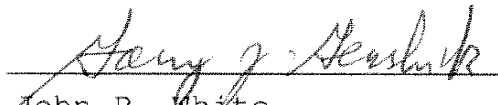
Accordingly, applicants maintain that (1) this Petition is being timely filed before the issue date of the patent; (2) the "good and sufficient reasons why withdrawal of the application from issue is necessary" have been set forth hereinabove; (3) the Petition is being accompanied by the necessary fee; and (4) the Petition is in accordance with 37 C.F.R. §1.313(c)(2) in that it

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is accompanied by a Request For Continued Examination in
compliance with 37 C.F.R. §1.114(c).

No fee, other than the total fee of \$940.00, which includes \$130.00 for filing the present Petition and \$810.00 for filing a Request for Continued Examination, is deemed necessary in connection with the filing of this Petition. Authorization is hereby given to charge the amount of \$940.00 to Deposit Account No. 03-3125. However, if any additional fee is required, authorization is also hereby given to charge the amount of any such additional fee to Deposit Account No. 03-3125.

Respectfully submitted,

Certificate of Transmission	
I hereby certify that this correspondence is being transmitted via the Electronic Filing System (EFS) to the U.S. Patent and Trademark Office on <u>December 9, 2010.</u>	
	<u>12/9/10</u>
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